



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

NOV 20 2003

Leslie J. Kerman, Esq.
6849 Old Dominion Drive
Suite 222
McLean, Virginia 22101

RE: MUR 5158

Dear Ms. Kerman:

On November 29, 2000, the Federal Election Commission notified your clients, the Brady Campaign to Prevent Gun Violence, the Brady Voter Education Fund and Mark Ingram, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on November 4, 2003, found that there is reason to believe that the Brady Campaign to Prevent Gun Violence Committee violated 2 U.S.C. §§ 441b, 441d, and 434(c); and the Brady Voter Education Fund and Mark Ingram, as treasurer, violated 2 U.S.C. §§ 441d and 434(b), provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The Commission also determined to take no action against www.mcollumandguns.com; www.allenandguns.com; www.ashcroftandguns.com; and www.bushandguns.com.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Kathleen Dutt, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Bradley A. Smith
Vice Chairman

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FACTUAL AND LEGAL ANALYSIS

Respondents:

Brady Campaign to Prevent Gun Violence
f/k/a/ Handgun Control, Inc.; Brady
Voter Education Fund f/k/a/ Handgun
Control Voter Education Fund and
Mark A. Ingram, as treasurer

MUR: 5158

I. INTRODUCTION

The complaint alleges that Handgun Control, Inc., now the Brady Campaign to Prevent Gun Violence ("the Brady Campaign"), and the Handgun Control Voter Education Fund, now the Brady Voter Education Fund ("the Brady Committee"), made prohibited, unreported, in-kind contributions to the campaigns of several federal candidates during the 1999-2000 election cycle in violation of the Federal Election Campaign Act of 1971, as amended ("the Act").¹ These alleged prohibited contributions resulted from television advertisements, press conferences, and websites that purportedly were sponsored by the Brady respondents. Additionally, the complaint alleges that the Brady Committee failed to include proper disclaimers on campaign advertisements and listed inaccurate addresses of contributors in its disclosure reports.

The Brady respondents originally submitted a cursory response to the complaint in which they categorically denied all allegations. Over one year later, the Brady respondents supplemented

¹ All of the facts relevant to these matters occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Act or statements of law regarding provisions of the Act contained in this report refer to the Act as it existed prior to the effective date of BCRA. Similarly, all citations to the Commission's regulations or statements of law regarding any specific regulation contained in this report refer to the 2002 edition of Title 11, Code of Federal Regulations, published prior to the Commission's promulgation of any regulations under BCRA.

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1 their response, acknowledging that one particular advertisement in opposition to Senate candidate
2 John Ashcroft failed to include a complete disclaimer. The federal candidate committee
3 respondents each responded to the complaint, denying any coordination with the Brady respondents
4 and requesting that the complaint be dismissed. These responses, as well as the applicable law, will
5 be discussed in the following sections, which analyze the specific allegations made in the
6 complaint.

7 II. BACKGROUND

8 The Brady Campaign is a 501(c)(4) non-profit corporation chaired by Sarah Brady. Her
9 husband, James Brady, is on the board of the Brady Campaign's self-described "sister
10 organization," the Brady Center to Prevent Gun Violence ("Brady Center"), a 501(c)(3) non-profit
11 organization which is not a respondent in this matter. The website for the Brady Campaign and the
12 Brady Center sets out the following "Vision and Mission Statement":

13 As the largest national, non-partisan, grassroots organization leading the
14 fight to prevent gun violence, the Brady Campaign and the Brady Center are
15 dedicated to creating an America free from gun violence, where all Americans are
16 safe at home, at school, at work, and in their communities. The Brady Campaign
17 and the Brady Center believe that a safer America can be achieved without
18 banning all guns.

19 The Brady Campaign works to enact and enforce sensible gun laws,
20 regulations and public policies through grassroots activism, electing pro-gun
21 control public officials and increasing public awareness of gun violence.

22 The Brady Center works to reform the gun industry and educate the public
23 about gun violence through litigation and grassroots mobilization, and works to
24 enact and enforce sensible regulations to reduce gun violence including
25 regulations governing the gun industry.

26 www.bradycampaign.org/about/mission.asp (emphasis added).

27 The Brady Committee is a separate segregated fund connected to the Brady Campaign. In
28 its Statement of Organization, the Brady Committee describes the Brady Campaign as a
29 membership organization. During the 1999-2000 election cycle, the Brady Committee reported
30 over three million dollars of combined receipts and disbursements. Included among its

disbursements are over one million dollars for independent expenditures, a number of which were made in connection with U.S. Senate campaigns in Florida, Virginia, and Missouri.

III. THE FLORIDA SENATE RACE

The complaint alleges that the Brady respondents violated the Act in connection with activities during the 2000 general election for Senate in Florida, including a press conference co-sponsored by the Brady respondents and candidate Bill Nelson and a website that advocated the defeat of Nelson's opponent, Bill McCollum.

A. Nelson Press Conference

According to a newspaper article attached to the complaint, Sarah Brady, Jim Brady, and Bill Nelson all participated in a press conference on October 16, 2000, in which Jim and Sarah Brady endorsed Nelson on behalf of the Brady Campaign. (Complaint Exhibit 20). The complaint alleges that expenditures related to the press conference were not reported to the Commission. Furthermore, the complaint contends that the expenditures were coordinated with the Nelson Committee and constituted a prohibited corporate contribution by the Brady Campaign.

The Commission first examined the complaint's allegation that expenses related to the press conference were not reported. *See* 2 U.S.C. § 434(b) and 11 C.F.R. § 104.13 (requiring all disbursements by committees, including in-kind contributions, to be reported). The Brady Committee reported expenditures in connection with the event, but after the complaint was filed. In its 2000 Post-General Report, the Brady Committee itemized two disbursements described as "in-kind travel/Nelson for Senate." These disbursements, totaling \$2,078.13, were dated on November 21, 2000 to Grand Bay Hotel and American Airlines. After the Brady Committee submitted this report, the Nelson Committee amended its 2000 Pre-General Report to include receiving an in-kind contribution from the Brady Committee in the amount of \$2,078.13 on October 16, 2000.

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1 Although the aforementioned expenditures were reported as being made by the Brady
2 *Committee*, a newspaper article attached to the complaint states that Jim and Sarah Brady endorsed
3 Nelson on behalf of the Brady *Campaign*. (Complaint Exhibit 20). Similarly, a press release from
4 the Nelson Committee also states that the Bradys endorsed Nelson on behalf of the Brady
5 Campaign. (Complaint Exhibit 19). The Brady Campaign, as a corporate entity, is prohibited from
6 making contributions or expenditures in connection with federal elections. *See* 2 U.S.C. § 441b.²
7 The Act defines "contribution or expenditure" as "any direct or indirect payment, gift of money,
8 services, or anything of value, to any candidate or campaign committee in connection with any
9 federal election." 2 U.S.C. § 441b(b)(2). The phrase "anything of value" includes all in-kind
10 contributions. 11 C.F.R. § 100.7(a)(1)(iii).

11 Here, Jim and Sarah Brady reportedly endorsed Nelson on behalf of the Brady Campaign,
12 and the press conference was sponsored by the Nelson Committee and attended by Nelson himself.
13 This situation is analogous to MUR 4116 (National Council of Senior Citizens ["NCSC"]). In that
14 matter, NCSC's executive director attended a press conference with Charles Robb to endorse him
15 on behalf of NCSC. Although the NCSC's separate segregated fund reported expenditures in
16 connection with the event, the Commission found reason to believe that NCSC violated the Act.
17 Similarly, in this case the Brady Campaign's expenses related to its endorsement of Nelson were
18 corporate in-kind contributions to the Nelson Committee.

19 Furthermore, because Mrs. Brady appears to have attended the conference in her capacity as
20 director of the Brady Campaign, a portion of her salary should have been reported as an in-kind
21 contribution to the Nelson Committee.³ *See* 2 U.S.C. § 434(b) and 11 C.F.R. § 104.13. Therefore,

² Although certain nonprofit corporations may make independent expenditures, the Brady Campaign has not claimed to be such a corporation. *See* 11 C.F.R. § 114.10

³ According to the Brady Campaign's 1999 tax statement, Sarah Brady worked 50+ hours per week and was paid \$155,900 per year, half of which was paid for by the Brady Center (Complaint Exhibit 1).

1 the Commission finds reason to believe that the Brady Campaign violated 2 U.S.C. § 441b in
2 connection with the Nelson press conference.

3 **B. Anti-McCollum Internet Site**

4 The complaint also alleges that the Brady respondents made prohibited, unreported
5 expenditures in connection with a website that expressly advocated the defeat of Bill McCollum.
6 The complaint attached a picture from this website, www.mccollumandguns.com.⁴ (Complaint
7 Exhibit 35). The website states that Florida families voted "YES" for common-sense gun laws,
8 while Bill McCollum voted "NO." The website then states, "Why vote for him, when he keeps
9 voting against you?" At the bottom of the page is a notation that the Brady Committee paid for the
10 website, but no indication is given of whether the website was authorized by a candidate. The
11 website also allowed visitors to view the anti-McCollum television advertisement discussed in the
12 previous section.

13 The complaint alleges that the Brady Committee did not report any expenses associated with
14 the website. After the complaint was filed, however, the Brady Committee reported expenditures in
15 connection with the website. In its 2000 Post-General Report, the Brady Committee itemized two
16 independent expenditures for a website in opposition to Bill McCollum: \$2,529.95 to Net Politics
17 Group and \$40.00 to Network Solutions. Thus, expenditures for the website appear to have been
18 paid for by the Brady Committee, even though the website existed for a substantial period prior to
19 the expenditures.

20 Because the Brady Committee paid for the website, it should have included a proper
21 disclaimer. *See* 2 U.S.C. § 441d. A disclaimer was required because the website expressly
22 advocated visitors not to "vote for" Bill McCollum. 11 C.F.R. § 100.22(a). Indeed, the Brady
23 Committee would not have needed to report the website as an independent expenditure had it not

⁴ The domain name for this website is registered to the Brady Campaign. (Complaint Exhibit 32).

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1 contained express advocacy. *See* 11 C.F.R. § 109.2. The disclaimer on the website, however, is
2 incomplete in that it does not state whether the website was authorized by a candidate.
3 Additionally, the Commission has determined that Internet sites constitute general public political
4 advertising for purposes of the Act's disclaimer provisions. *See* Advisory Opinion 1995-9; MUR
5 4340; 2 U.S.C. § 441d. Therefore, the Commission finds reason to believe that the Brady
6 Committee violated 2 U.S.C. § 441d in connection with this website.

7 **IV. THE VIRGINIA SENATE RACE**

8 The complaint alleges that the Brady Campaign made unreported prohibited corporate
9 expenditures by attending a September 12, 2000, press conference with Virginia Senate candidate
10 Charles Robb to endorse him in the 2000 general election for Senate in Virginia. According to
11 press releases by both the Robb Committee and the Brady Campaign, Jim and Sarah Brady attended
12 the press conference with Senator Robb. (Complaint Exhibits 39-40). The Robb Committee states,
13 in its response to the complaint, that the Robb Committee "sponsored and publicized" the press
14 conference attended by the Bradys, but that the complainant fails to present any violation of the Act.

15 The Commission first examined the complaint's allegation that expenditures related to the
16 press conference were not reported. The Brady Committee's disclosure reports and found no
17 itemized disbursements that appear related to the press conference. Yet unlike the Nelson press
18 conference, which occurred in Florida, the Robb press conference occurred in Arlington, Virginia,
19 near the offices of the Brady Campaign. Moreover, the press conference occurred at a county
20 courthouse, which was available for use by the public without cost. Thus, there may not have been
21 any travel or facility charges related to the Robb press conference.

22 According to the press release issued by the Brady *Campaign*, Jim and Sarah Brady
23 endorsed Robb on behalf of the Brady *Committee*. (Complaint Exhibit 40). Nonetheless, as the
24 connected organization, the Brady Campaign necessarily was involved in a press conference co-

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1 sponsored by its separate segregated fund. *See* 11 C.F.R. § 114.5(d) (allowing membership
2 organizations to exercise control over their separate segregated funds). This press conference is
3 analogous to MUR 4116 (NCSC). In that matter, which also involved a press conference
4 endorsement of Charles Robb, the Commission found reason to believe that NCSC, a nonprofit
5 corporation, violated the Act even though its separate segregated fund reported expenditures in
6 connection with the press conference.

7 Furthermore, a portion of Sarah Brady's salary should have been reported in connection
8 with the event because she apparently endorsed Robb on behalf of the Brady Campaign. Therefore,
9 the Commission finds reason to believe that the Brady Campaign violated 2 U.S.C. § 441b in
10 connection with the Robb press conference.

11 **V. THE MISSOURI SENATE RACE**

12 In addition to the Florida and Virginia Senate races, the complaint alleges that the Brady
13 respondents violated the Act in connection with activities in the 2000 general election for the Senate
14 in Missouri. First, the complaint alleges that the Brady respondents aired a television advertisement
15 that expressly advocated the defeat of candidate John Ashcroft. Second, the complaint alleges that
16 the Brady respondents maintained a website that also advocated the defeat of Ashcroft.

17 **A. Anti-Ashcroft Television Advertisement**

18 The complaint first alleges that the Brady respondents paid for a television advertisement
19 that expressly advocated the defeat of Senator John Ashcroft. The complaint contends that the
20 advertisement did not include a proper disclaimer and that expenditures were coordinated with the
21 Carnahan Committee. Although the complaint also alleges that expenditures for the advertisement
22 were not reported, the Brady Committee itemized a \$254,932 independent expenditure in its 2000
23 Pre-General Report for a "media placement" in opposition to John Ashcroft (\$125,156 of which was
24 later refunded).

1 The complaint attached a computer screen image apparently taken from this advertisement.
2 (Complaint Exhibit 44). The image shows Sarah and James Brady, with the words "Vote No on
3 John Ashcroft," "www.AshcroftAndGuns.com" and a disclaimer that read: "Paid For By [the Brady
4 Committee]." The Brady Committee submitted a copy of the videotape in its supplemental
5 response to the complaint. The audio portion of this advertisement stated:

6 Sarah Brady: It happened so quickly. (Gun shots) In an instant
7 President Reagan and Jim were shot.

8 Background: Get the ambulance in here.

9 James Brady: Our lives have never been the same.

10 Sarah Brady: That's why we are so offended when John Ashcroft
11 called Jim the leading enemy of gun owners. Last
12 year John Ashcroft supported the Missouri
13 referendum to allow carrying concealed handguns.

14 James Brady: He even voted against child safety locks. It's time to
15 vote NO on John Ashcroft.
16

17 By using the exhortation "Vote no on John Ashcroft," the advertisement expressly
18 advocated the defeat of Ashcroft and thus should have contained a proper disclaimer. *See* 11 C.F.R.
19 § 100.22(a); 2 U.S.C. § 441d. Although the disclaimer on the advertisement stated who paid for it,
20 it did not state whether it was authorized by any candidate. *See* 2 U.S.C. § 441d. The Brady
21 Committee, in its supplemental response to the complaint, acknowledges that the disclaimer was
22 incomplete and should have stated that the commercial was not authorized by any candidate.
23 Saying that it "regrets" the incomplete disclaimer, the Brady Committee asserts that responsibility
24 for placing a proper disclaimer rested with its vendor.

25 Contrary to the Brady Committee's argument, the responsibility for including a proper
26 disclaimer rests with the person placing the advertisement, not the vendor. *See* 2 U.S.C. § 441d.
27 Although the Brady Committee cites MUR 3739 as an instance where the Commission took no
28 action against a committee because of a vendor's mistake, that matter involves significantly
29 different circumstances. In MUR 3739, the respondent committee provided documentation that it

1 submitted an advertisement with a proper disclaimer to a newspaper. The newspaper also wrote a
2 letter acknowledging that it mistakenly omitted the disclaimer. By contrast, the Brady Committee
3 has not submitted any documentation to support its claim. In fact, the Brady Committee simply
4 states that it "assume[d]" that its vendor would include the appropriate disclaimer language.

5 Other matters demonstrate that committees, not vendors, are responsible for ensuring that
6 proper disclaimers appear on communications. *See, e.g.*, MURs 4759 (Maloof), 4741 (Mary Bono
7 Committee), 3682 (Fox for Congress Committee). Therefore, the Commission finds reason to
8 believe that the Brady Committee violated 2 U.S.C. § 441d in connection with this television
9 advertisement.

10 **B. Anti-Ashcroft Internet Site**

11 The complaint also alleges that the Brady respondents made prohibited expenditures in
12 connection with a website that expressly advocated the defeat of John Ashcroft. The complaint
13 attached a picture from this website, www.ashcroftandguns.com.⁵ (Complaint Exhibit 33). The
14 heading on the website reads, "What is John Ashcroft's Record on Guns?" followed by summaries
15 of Ashcroft's position on gun laws. The text at the bottom of the page reads, "It's time to say NO to
16 John Ashcroft" and "Vote against John Ashcroft on Tuesday, November 7th." A disclaimer at the
17 bottom of the page states: "Paid for by the [Brady Committee]."

18 The complaint alleges that the Brady Campaign, not the Brady Committee, paid for the
19 advertisement, noting that the Brady Committee never reported any expenditures for the website.
20 After the complaint was filed, however, the Brady Committee reported expenditures in connection
21 with the website. In its 2000 Post-General Report, the Brady Committee itemized two independent
22 expenditures for a website in opposition to Ashcroft for Senate: \$500 to Rob Letzler of McLean,
23 Virginia, and \$40 to Network Solutions. Thus, expenditures for the website appear to have been

⁵ The domain name for this website is registered to the address of the Brady Campaign (Complaint Exhibit 31).

1 reported by the Brady Committee, albeit, only after the complainant's allegations regarding the
2 website were filed with the Commission.

3 Because the Brady Committee paid for the website, and because the website expressly
4 advocated visitors to "vote against" John Ashcroft, the website should have included a proper
5 disclaimer. *See* 2 U.S.C. § 441d; 11 C.F.R. § 100.22(a). The disclaimer that appears on the website
6 is incomplete because it does not state whether the website was authorized by a candidate; it only
7 states that the Brady Committee paid for the communication. *See* 2 U.S.C. § 441d. Therefore, the
8 Commission finds reason to believe that the Brady Committee violated 2 U.S.C. § 441d in
9 connection with this website.

10 VI. OTHER ACTIVITIES BY THE BRADY RESPONDENTS

11 In addition to sponsoring the candidate-specific websites discussed in the previous sections,
12 the Brady respondents have their own website, www.bradycampaign.org. The complaint alleges
13 that the Brady respondents violated the Act in connection with this website by including a "pop-up"
14 web page that allegedly expressly advocated the defeat of George Bush. In addition to these web
15 pages, the complaint alleges that the Brady respondents also violated the Act by reporting
16 inaccurate address of its contributors to the Commission.

17 A. Anti-Bush Pop-up Web page

18 The complaint alleges that the Brady Campaign made prohibited expenditures in connection
19 with a "pop-up" web page on its Internet site. This page contains a picture of Charlton Heston and
20 quotes him as stating, "Now, [Al Gore is] saying 'I'm with you guys on guns.' In any other time or
21 place you'd be looking for a lynching mob..." Following this quote, the following text appeared:

22 These are the people who are endorsing and supporting Governor Bush.
23

24 Do you want a man in the White House whose most ardent supporters
25 publicly call for violence?"
26

1 NEITHER DO WE
2 (Click here to give)
3 (Complaint Exhibit 22).

4 The complaint alleges that this page expressly advocates the defeat of George Bush and fails
5 to contain a proper disclaimer. Further, the complaint alleges that expenditures for this page were
6 not reported and that the Brady Campaign made a prohibited corporate expenditure.

7 An examination of disclosure reports filed by the Brady Committee shows no disbursements
8 obviously related to this particular website page. Although the Brady Committee reported a series
9 of independent expenditures on behalf of general election candidates in 2000, none of these reported
10 expenditures were on behalf of the Gore presidential campaign or in opposition to the campaign of
11 George W. Bush. Thus, the Brady Campaign likely paid for this page, which appeared on its
12 website.

13 The web page in question expressly advocates the defeat of George W. Bush, naming both
14 candidates in the 2000 presidential general election, and using election-related words such as
15 "endorsing" and "supporting." *See* 11 C.F.R. § 100.22(a). Further, by asking and answering the
16 rhetorical question related to putting "a man in the White House" with the phrase "neither do we,"
17 the website "in effect" calls for Bush's defeat. *MCFL*, 479 U.S. at 249.

18 Membership organizations such as the Brady Campaign are entitled to expressly advocate
19 the election and defeat of candidates, but only to their restricted class. *See* 2 U.S.C.
20 § 441b(b)(2)(A) and 11 C.F.R. § 114.3(a). Likewise, as a separate segregated fund, the Brady
21 Committee is entitled to solicit funds only from its restricted class. The restricted class of an
22 incorporated membership organization includes its members, its executive and administrative
23 personnel, and the families of these groups. 11 C.F.R. § 114.1(j). In Advisory Opinion 1997-16,
24 the Commission determined that, because of the general availability of access to the Internet, the
25 posting of an endorsement on an incorporated group's website would be considered a form of

1 communication to the general public and thus a prohibited expenditure, unless access to such
2 information were somehow restricted to the group's members.⁶

3 The Brady Campaign's website has been available for viewing by any member of the
4 general public with a web browser installed on a computer with access to the Internet. Furthermore,
5 the Brady Campaign does not appear to have taken any steps to prevent access to the pop-up
6 advertisement by persons outside its restricted class. Thus, the general availability of the pop-up
7 web page resulted in a prohibited communication beyond the restricted class. Likewise, if an
8 investigation shows that the solicitation at the bottom of the page ("Click here to give") was for the
9 Brady Committee, then the Brady respondents would have solicited outside their restricted class.

10 The complaint did not allege that the Brady respondents coordinated this page with any
11 candidate, nor are there any available facts to suggest that the Gore-Lieberman Committee had any
12 involvement in the web page. In the absence of evidence of coordination, and given the express
13 advocacy in the advertisement and its dissemination to the general public, the page appears to have
14 been an independent expenditure. As such, it should have contained a disclaimer stating who paid
15 for it and whether it was authorized by any candidate or candidate's committee. *See* 2 U.S.C.
16 § 441d. Further, if the cost of the web page exceeded \$250, the Brady Campaign would have been
17 required to report the independent expenditure. *See* 2 U.S.C. § 434(c). Therefore, the Commission
18 finds reason to believe that the Brady Campaign violated 2 U.S.C. §§ 441b, 441d, and 434(c) in
19 connection with the pop-up web page.

⁶ More recently, the Commission has stated that "the Act generally prohibits [corporations and labor organizations] from using web sites that are available to the general public to assist or advocate on behalf of any federal candidate." Notice of Proposed Rulemaking, *The Internet and Federal Elections*, 66 FR 50358, 50363 (October 3, 2001). Although these proposed new regulations would explicitly permit certain Internet activity by incorporated membership organizations, they would not allow such organizations to create a special web page—or "pop up ad"—available to the public that expressly advocates the defeat of a candidate, as the Brady Campaign appears to have done with the anti-Bush page. *Id*

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1 **B. Reporting of Addresses**

2 The complaint also alleges that the Brady Committee violated the Act by incorrectly
3 reporting the addresses of eight itemized contributors. Attached as Complaint Exhibit 45 were
4 copies of three pages from the Schedule A submitted by the Brady Committee as part of its 2000
5 April Quarterly Report. Eight contributors are reported as having the address of the Brady
6 Campaign—1225 Eye St., #1100, Washington, DC 20005.⁷ The complaint contends that this report
7 constituted the filing of “false and misleading information” and to a “deliberate action” warranting
8 “criminal investigation” and referral to the Department of Justice.

9 Political committees are required to report the names and addresses of all persons who make
10 contributions aggregating over \$200 in a calendar year. *See* 2 U.S.C. § 434(b)(3)(A); 11 C.F.R.
11 § 104.8. A review of the information attached to the complaint has also revealed that each of the
12 eight contributors whose addresses were given as that of the Brady Campaign were also missing
13 information as to “Occupation/Employer,” with entries of “Info requested” appearing instead. On
14 June 14, 2000, the Reports Analysis Division sent a Request for Additional Information (an
15 “RFAI”) to the Brady Committee regarding missing information on the occupation/employer of
16 contributors. The RFAI listed the requirement to identify contributors by mailing address, but did
17 not specifically cite problems with the addresses of the contributors.

18 On June 17, 2000, the committee submitted an amended April Quarterly Report which
19 included as a Schedule A an itemization of nine contributors, including four of the eight with
20 addresses previously reported as 1225 Eye Street, NW. The addresses on the amended report were
21 not changed; the amendment only provided new information about the “Occupation/Employer” of
22 each contributor. Later, on July 7, 2000, the committee submitted a second amendment of its April

⁷ The eight are Roscoe Dellums, Mary Lewis Grow, Victoria Reggie Kennedy, Richard Parise, Nancy Schoenke, Phyllis Segal, Jerry Ter Horst and Ray Schoenke

Quarterly Report. This amendment addressed the contributor identification issue by attaching its solicitation materials and a copy of a follow-up letter. It is not clear from these forms that the committee focused upon the contributor's address; rather, the emphasis was upon obtaining information about occupation and employer, therefore, it is questionable if the Committee used "best efforts" to obtain the contributors' address information required by the Act. *See* 11 C.F.R. § 104.7(b)(1)(i).

Later reports filed by the Brady Committee in 2000 do not show further use of the committee's address as that of contributors. The total number of contributions from individuals itemized by the Brady Committee in all of its 2000 reports was 149. Thus, the eight contributions with incorrect addresses itemized in the April Quarterly Report represented 5% of the total number for the year. Given the small percentage of addresses apparently misreported and that the problem was confined to one reporting period the Commission does not intend to investigate the incorrect addresses. Nonetheless, because the proper addresses were never reported, the Commission finds reason to believe that the Brady Committee violated 2 U.S.C. § 434(b).

The Commission did not make any reason to believe findings in connection with any other allegations contained in the complaint.